
(2013) 10 MAD CK 0001
In the Madras High Court
Case No : H.C.P. (MD) No. 1111 of 2013

S. Esakki

APPELLANT

Vs

The State

RESPONDENT

Date of Decision : 23-10-2013

Acts Referred:

Citation : (2013) 10 MAD CK 0001

Hon'ble Judges : V. Dhanapalan, J;M. Duraiswamy, J

Bench : Division Bench

Advocate : R. Anand, for the Appellant; Mohan for R1 and R2, Mr. A. Karthikeyan, Additional Public Prosecutor for R3 and Mr. Nithyaesh Natraj for Detenue, for the Respondent

Final Decision : Dismissed

Judgement

V. Dhanapalan, J.—The father of the detenue has come before this Court praying for a direction to the respondents 1 and 2 to produce the

body of the petitioner's daughter by name E. Indirani, aged about 22 years and set her at liberty. According to the petitioner, his daughter E.

Indirani was given in marriage to one S. Avudaiappan hailing from Mudukku Theru, Cheranmahadevi. After their marriage, they have been living

together joyfully to the appreciation of every one. During the year 2012, the detenue wanted to go for an employment and the petitioner's family

have agreed for the same, as a result of which, she had been put into a service at a post, namely, ""Transaction Assistant"" in H.D.F.C. Bank at

Vannarpettai, Tirunelveli, where the third respondent was in employment as Micro Finance Manager. His daughter is a day scholar, as far as her

job is concerned and she had the habit of going office by bus and returning home after business hours. At that point of time, one fine morning, the

detenue has informed to her husband stating that as and when she goes to bank, very often the third respondent used to tease her by way of

sending some message over a mobile phone and further stated that in view of the third respondent's such behaviour, virtually she was put under

sexual harassment. After that, the husband of the detenue checked the mobile phone of the detenue occasionally and he came to know that there

had been lot of unwarranted messages sent by the third respondent.

2. While so, on 13.06.2013, the detenue who had gone to bank, did not return back even after sunset. Immediately, the petitioner and others had

gone to bank and searched her whereabouts. Since they could not yield any information about the detenue, finally, they had gone to the bank and

asked the third respondent about her vicinity. The third respondent started shouting on them and gave only evading replies. All those have given a

room that he is the only person, who put the detenue under his hands. Having no other remedy, the husband of the detenue has gone to the second

respondent police station and gave a complaint. A case has been registered in Crime No. 192 of 2013 u/s 363 IPC.

3. At that time, the petitioner had received a communication from a advocate stating that the detenue has filed a writ petition in W.P. No. 17741 of

2013 claiming that the petitioner and his family are to be restrained in getting her being disturbed while her existence at Chennai in the address

referred to in the said writ petition. Further, in the said notice, it was informed that an interim order has also been passed by the Principal seat of

this Court. After entering appearance in the said writ petition, the petitioner started search of the detenue from the address referred to in the writ

petition, namely, Andhra Mahila Sabha, No. 12, Dugabhai, Deshmukh Road, Chennai-600 028. But, to his shock and surprise, the detenue was

not available there and on information from the said authorities, the petitioner came to know that the detenue was admitted there on 14.06.2013

and subsequently, discharged on 28.06.2013 by one Mrs. Rajalakshmi. Now, the petitioner has not have any clue about the whereabouts of his

daughter and therefore, finding no other remedy, the petitioner is before this Court.

4. The detenue has come before this Court through her counsel and filed an affidavit on her own stating that she is a major aged about 22 years

and fully capable and competent to make decisions for herself and for her well being and also stated that she is a safe and secure independent

woman and there is no threat/danger to her life whatsoever from the third respondent herein and thus, this petition is totally misconceived,

unnecessary and unwarranted. She has sworn further to the statement informing that she has dreams and ambitions of becoming an IAS officer and

it is her dream ever since childhood to become a civil servant and serve the country dutifully. In pursuance of that dream, she studied well

throughout her childhood and consistently, maintained good grades. Further, she stated that she is very much interested in her education and

wanted to study and become successful on her own, but sadly her parents never shared the same dreams and she had for herself.

5. It is the further case of the detinue that one Avudaiappan alias Mahesh was continuously chasing and harassing her to marry him and she never

accepted, since she was never interested on him. Knowing fully well that she was not interested, he used to resort to cheap antics to scare her and

her family by cutting himself and shouting and screaming outside her house pleading for her to marry him. Her father, instead of reproaching his

cheap and lewd behaviour, supported him and forced her to marry him. Therefore, left with no other choice, she forced to marry that person.

Furthermore, just three days after the marriage, her husband started ill-treating her and stated that he no longer loves or cares for her and began

harassing her. She used to work at the HDFC Bank in Tirunelveli and her husband started doubting her and harassing and beat her and asked her

to stop working. But, she wanted to do something big in life and wanted to work. This angered her husband even more and abused her very badly.

At this point of time, her mother also came and her husband hit her and caused a huge cut on her head and she started bleeding profusely and

immediately, she was rushed to the hospital and since then, she never wanted to remain with her husband at all and left to stay at her parents place.

Even after that, her parents forced her to go back to him and she pleaded and begged to be left alone, so that she could study, but to no avail. She

on her own, has taken a decision to leave her parents house and came to Chennai and with the help of friends and well wishers, she was residing at

Andhra Mahila Sabha. Further, her parents with her husband wanted to take back her to Tirunelveli and she also learnt that a case has been

registered. She has further stated that on 17.06.2013, she made a complaint to the Commissioner of Police, but there was no action. Thereafter, she filed W.P. No. 17741 of 2013 before this Court and obtained an order of injunction on 28.06.2013 against her husband and parents not to harass or disturb or remove from her peaceful existence and residence in Chennai or any other place. Further, this Court also directed the police to give her appropriate police protection in the event of any request is made by her. She is a major and competent to take decisions on herself and on own volition. Further, she made a sworn statement that the third respondent, who has been accused of detaining her, is an innocent man and has done nothing wrong whatsoever against her. Therefore, she prayed for dismissal of the petition.

6. The third respondent also has come before this Court and filed an affidavit, wherein in paragraphs 3 to 5 it is stated as follows:

3. I state that I am presently working as Manager of the Tirunelveli Branch of the HDFC bank and hold a very respectable position in the society.

One E. Indirani (the alleged detainee in the instant HCP) joined as an employee of the said bank. My wife and said Indirani are cousin sisters. The

said Indirani had various personal problems with her husband and her parents. She was alleged beaten and abused continuously by her husband

and whenever she used to complain about the same to her parents, her parents would turn a deaf ear to the same.

4. I state ever since she started working in the HDFC bank, the husband of Indirani started doubting me and made several threatening phone calls

to me. However, I did not interfere since it is he personal life of my employee and I do not believe in interfering with other people's personal lives

unnecessarily. Suddenly, the said Indirani stopped coming to office and when I enquired about her whereabouts, I learnt that she had left to

Chennai, unable to bear the brunt of the he torture meted out to her by her parents and husband. I learnt that she was residing at Andhira Mahila

Sabha, Chennai and was aspiring to become an IAS officer.

5. The usual business routine however continued and I went on with my occupation in Tirunelveli. However, I was shocked to learn of a complaint

having been filed against me by the husband and parents of the said Indirani and on 27th June, 2013 and First Information Report was registered

against me by the police for the alleged offence of kidnapping.

7. On the above background pleadings, we have heard the learned counsel for the parties. We enquired the detenue and she has firmly informed us

that she is not detained by the third respondent in any manner as claimed by the petitioner, her father. She is also desired to continue to stay in the

place where she is now staying, namely "Arch of Grace" Women Working Hostel, Chennai and she wanted to continue her stay in that place. She

has informed that her date of birth is 30.08.1990 and she is 23 years old and she is a major and competent to take a decision independently and

therefore, she has pleaded consistently before this Court that she is not prepared to go along with the petitioner, but to continue to stay at Chennai

in the place as mentioned above. She being a major and her desire is more important and she had the dream to continue her studies and to become

a collector, this Court has no other option, except to set the detenue at liberty and allow her to go as per her wish.

Accordingly, this habeas corpus petition is dismissed, leaving the parties to work out their remedies before the competent forum under the relevant

jurisdiction, in the manner known to law.